

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT DANVILLE, VA
FILED

JUN 14 2016

UNITED STATES OF AMERICA

Case No. 4:12-cr-00007-1

JULIA G. DUDLEY, CLERK

BY:

DEPUTY CLERK

v.

MEMORANDUM OPINION


RAPHAEL LAMAR PRICE,
Petitioner.

By: Hon. Jackson L. Kiser
Senior United States District Judge

Raphael Lamar Price, a federal inmate proceeding pro se, filed a motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255 in light of Johnson v. United States, ___ U.S. ___, 135 S. Ct. 2551 (2015). Court records indicate that the court already dismissed (Dkt. No. 44) a prior § 2255 motion (Dkt. No. 37). Thus, the § 2255 motion is a second or subsequent motion under 28 U.S.C. § 2255(h). See, e.g., United States v. Hairston, 754 F.3d 258, 262 (4th Cir. 2014).

The court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that a claim in the motion meets certain criteria. See 28 U.S.C. § 2255(h). As Petitioner has not submitted any evidence of having obtained certification from the Court of Appeals to file a second or successive § 2255 motion, the court dismisses the § 2255 motion without prejudice as successive. Based upon the court's finding that Petitioner has not made the requisite substantial showing of denial of a constitutional right as required by 28 U.S.C. § 2253(c), a certificate of appealability is denied.¹

ENTER: This 14th day of June, 2016.


Senior United States District Judge

¹ Petitioner is hereby advised of the procedure for obtaining certification to have this court review a successive § 2255 motion. Petitioner must submit a copy of the successive § 2255 motion to the Court of Appeals, along with a motion requesting a three-judge-panel certification that the district court may review the successive § 2255 motion. See 28 U.S.C. § 2244(b). A Fourth Circuit form and instructions for filing this motion are available from the Fourth Circuit at the following address: Office of the Clerk, United States Court of Appeals for the Fourth Circuit, 1100 E. Main St., Suite 501, Richmond, VA 23219.